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3 *E-filed on* 5/19/08

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11
12 REHAN SHEIKH, | No. C-07-00262 RMW
13 Plaintiff,
14 v.
15 CISCO SYSTEMS, INC., and DOES 1 through | ORDER DENYING PLAINTIFF'S RECUSAL
20, inclusive, | REQUEST; ORDER GRANTING
16 Defendants. | PLAINTIFF'S REQUEST FOR ADDITIONAL
TIME TO FILE A REPLY
17
18 [Docket Nos. 56, 57]

19 On May 19, 2008, the court issued an order regarding plaintiff's request for accommodations
20 regarding his asserted disabilities. Later the same day, the court received two motions, filed by
21 plaintiff on May 16, 2008: (1) a motion for recusal and (2) a motion requesting more time to file a
22 reply in plaintiff's motion to remand. The court addresses these motions below.

23 **A. Request for Recusal**

24 The first motion asks the undersigned to recuse or withdraw himself from this case because
25 the court has not "timely addressed" his requests for accommodation, and because the court has not
26 taken action to prevent defendants from opposing plaintiff's purported "constitutional rights for an
27 attorney." *See* Docket No. 56.

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ORDER DENYING PLAINTIFF'S RECUSAL REQUEST; ORDER GRANTING PLAINTIFF'S REQUEST FOR ADDITIONAL
TIME TO FILE A REPLY—No. C-07-00262 RMW
MAG

1 The court denies plaintiff's request that this court either recuse or withdraw. Recusal is
2 appropriate only where a "reasonable person with knowledge of all the facts would conclude that the
3 judge's impartiality might reasonably be questioned." *Yagman v. Republic Ins.*, 987 F.2d 622, 626
4 (9th Cir. 1993) (citation omitted). Plaintiff sets forth no such facts.

5 First, the court has ruled on plaintiff's requests for accommodation. As noted above, the
6 court issued an order on plaintiff's requests for accommodations on May 19, 2008. That order set
7 forth the time and procedure for plaintiff to attend the May 23, 2008 hearing on his motion to
8 remand to state court, granted his request to continue Cisco's motion to compel arbitration, granted
9 his request to consider evidence submitted in support of prior motions, and denied his request for
10 counsel and special assistance from the court in scheduling and formulating motions. To the extent
11 that plaintiff disagrees with the court's rulings, plaintiff should note that adverse rulings are not an
12 adequate basis for recusal. *Leslie v. Grupo ICA*, 198 F.3d 1152, 1160 (9th Cir. 1999).

13 Second, plaintiff does not have a constitutional right to an attorney in a civil action such as
14 this one and the court is under no obligation to appoint counsel. There is no constitutional right to
15 counsel in a civil case unless an indigent litigant may lose his physical liberty if he loses the
16 litigation. *See Lassiter v. Dep't of Social Services*, 452 U.S. 18, 25 (1981); *Rand v. Rowland*, 113
17 F.3d 1520, 1525 (9th Cir. 1997) (no constitutional right to counsel in § 1983 action), *withdrawn in*
18 *part on other grounds on reh'g en banc*, 154 F.3d 952 (9th Cir. 1998) (en banc). Plaintiff's civil
19 action does not involve incarceration or other form of restraint of his physical liberty. While the
20 court may request counsel to represent an indigent litigant under 28 U.S.C. § 1915, the decision to
21 do so is within "the sound discretion of the trial court and is granted only in exceptional
22 circumstances." *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). This case does not
23 present the requisite "exceptional circumstances."

24 **B. Request for Extra Time to File a Reply Brief for Plaintiff's Motion to Remand**

25 As noted above, the court's May 19, 2008 order regarding plaintiff's request for
26 accommodation continued the due date for plaintiff's opposition to Cisco's motion to compel
27 arbitration until 30 days after the court's ruling on plaintiff's motion to remand this action to the state
28 court. Plaintiff's motion to remand is currently set for hearing this coming Friday, May 23, 2008,

1 and reply papers would have been due on May 9, 2008. Plaintiff has not yet filed a reply. Although
2 plaintiff's request for accommodation did not originally ask for additional time to file a reply for his
3 motion to remand, plaintiff now seeks an additional 20 days to file a reply in his "Motion for Extra
4 Time For Plaintiff's Reply Brief on Second Motion to Remand to State Court." See Docket No. 57.

5 Plaintiff claims to have cognitive impairment and memory problems. As a result, he needs
6 more time than usual to read and to compose his papers. He asked the court to appoint counsel
7 because of these impairments, but, as discussed above, the court denied the request. However, the
8 court finds good cause to allow plaintiff additional time to submit reply briefing for his motion to
9 remand. Accordingly, plaintiff will have until June 13, 2008 to file a reply to his motion to remand.
10 Due to the court's availability, the hearing on plaintiff's motion to remand will be continued until
11 July 18, 2008. As previously set forth in the court's May 19, 2008 Order Continuing Hearing on
12 Cisco's Motion to Compel Arbitration, the briefing schedule and hearing for defendant's motion to
13 compel arbitration will be continued to give plaintiff thirty 30 days after the court's ruling on
14 plaintiff's motion to remand to respond. The schedule will be set in the court's order on plaintiff's
15 motion to remand.

16 **ORDER**

17 For the forgoing reasons:

18 • The court denies plaintiff's request that the undersigned recuse himself from his case.
19 • The court grants plaintiff's request for more time to file a reply brief regarding his
20 motion to remand to state court as follows:
21 • Plaintiff's reply will now be due **June 13, 2008**.
22 • The hearing on plaintiff's motion to remand will be continued **to July 18,**
23 **2008 at 9:00 a.m.** Plaintiff may appear telephonically by submitting a motion
24 to appear telephonically telling the court at what number he can be reached.

25
26 DATED: 5/19/08

Ronald M. Whyte
27 RONALD M. WHYTE
28 United States District Judge

1 **A copy of this order was mailed on** 5/19/08 **to:**

2 **Plaintiff:**

3 Rehan Sheikh
4 PO Box 869
French Camp, CA 95231-0869
4 *PRO SE*

5 **Notice of this document has been electronically sent to:**

6 **Plaintiff**

7 Rehan Ayyub Sheikh rehansheikh@yahoo.com

8 **Counsel for Defendants:**

9 Marlene S. Muraco mmuraco@littler.com
Erica H. Kelley ehermatz@littler.com

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12 Counsel are responsible for distributing copies of this order to co-counsel, as necessary.